

BILL ANALYSIS

C.S.H.B. 2185
By: Woolley
Economic Development
Committee Report (Substituted)

BACKGROUND AND PURPOSE

In the September 2005 Report on the Unemployment Insurance (UI) Program by the State Auditor's Office (SAO), it was noted that the Texas Workforce Commission (Commission) has done a good job on the national best practices designed to prevent and detect unemployment insurance overpayments and to prosecute fraud. However, the report did identify inadequate responses by many Texas employers to the Commission's information requests which end up costing the UI Trust Fund (Fund) approximately \$9.9 million in overpayments and appeals processing costs during calendar year 2004. A portion of the UI taxes paid into the Fund by nearly all Texas employers cover these avoidable costs.

Overpayments often occur when an employer provides little or no information in its response to a claims notice to explain why the claimant's employment was terminated. Based upon inadequate employer response, the Commission, relying upon the information available at the time, generally rules in the claimant's favor and begins paying unemployment benefits. However, if the employer then appeals the ruling and provides the needed information to win a reversal, an improper payment of benefits has been made to the claimant and the Commission must attempt to collect from the claimant all the benefits he/she received before the reversal. In these cases, the claimant carries the liability for the improper payment, despite the fact that the employer failed to provide adequate information at the beginning of the claims adjudication process when the improper benefit could have been avoided. The SAO specifically recommended that the Commission seek legislation that would allow it to hold individual employers financially liable for overpayments caused by inadequate or incomplete responses to unemployment benefit claims.

C.S.H.B. 2185 authorizes the Commission to assign liability for the improper payment to an employer who failed, without good cause, to respond adequately to a request for information related to the claim for unemployment benefits.

RULEMAKING AUTHORITY

It is the opinion of the committee that this bill does not expressly delegate any additional rulemaking authority to a state officer, department, agency or institution.

ANALYSIS

SECTION 1. Amends Section 212.006, Labor Code, to provide for the recovery of improperly paid unemployment benefits where the Commission determines that someone other than the claimant was at fault for failing, without a good cause, to respond adequately to a request from the Commission for information relating to the claim. After the Commission makes its final determination, any improper benefit shall be refunded by the person, other than the claimant, who has been deemed responsible, thus removing the claimant from any repayment liability. Recovery of the improperly paid unemployment benefits are collectible from the claimant or by a person who has been deemed responsible. The act of failing to respond adequately to a request for information by the Commission on a claim may include a person's failure to provide accurate information, more detailed information, or clarifying information on material facts relating to a claim.

SECTION 2. Amends Section 214.002(a), Labor Code, to clarify that a claimant who has received an improper benefit is not liable for the repayment if the Commission has determined that another person is liable as stated in SECTION 1 of this bill.

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SECTION 3. Establishes that changes in law made by this bill apply only to claims for unemployment compensation benefits filed on or after the effective date of this Act.

SECTION 4. States the effective date for this Act.

EFFECTIVE DATE

This Act takes effect September 1, 2007.

COMPARISON OF ORIGINAL TO SUBSTITUTE

C.S.H.B. 2185 modifies the original by adding language that clarifies that improperly paid benefits are collectible from the claimant or a person that has been deemed responsible by the Commission.